



**FEDERAL ELECTION COMMISSION**  
Washington, DC 20463

**AUG 14 2015**

**VIA FIRST CLASS MAIL**

Karl J. Sandstrom, Esq.  
Perkins Coie  
700 Thirteenth Street, NW, Suite 600  
Washington, DC 20005-3860

RE: MUR 6811  
Marjorie 2014 and Jennifer May in  
her official capacity as treasurer

Dear Mr. Sandstrom:

On April 29, 2014, the Federal Election Commission notified your clients, Marjorie 2014 and Jennifer May in her official capacity as treasurer ("the Committee"), of a complaint alleging violations of certain sections of the Commission's regulations promulgated pursuant to the Federal Election Campaign Act of 1971, as amended. On May 14, 2014, the Commission notified the Committee of a supplement to the complaint. On August 11, 2015, based upon the information contained in the complaint, the supplement, and information provided by you, the Commission voted to dismiss the allegation that the Committee violated 11 C.F.R. § 102.9(e)(2). The Factual and Legal Analysis, which more fully explains the Commission's decision, is enclosed for your information.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003).

If you have any questions, please contact Delbert Rigsby, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in black ink that reads "Mark Allen".

Mark Allen  
Assistant General Counsel

Enclosure  
Factual and Legal Analysis

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

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5 RESPONDENTS: Marjorie 2014 and Jennifer May in her  
6 official capacity as treasurer

MUR 6811

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8 **I. INTRODUCTION**

9 The Complaint alleges that Marjorie 2014 ("Committee")<sup>1</sup> violated 11 C.F.R.  
10 § 102.9(e)(2) by spending general election funds on consultants and other vendors for the  
11 primary election and failing to maintain more cash-on-hand than the sum of general election  
12 contributions received less the sum of general election disbursements made. The Committee  
13 denies the allegation. As discussed below, the Commission dismisses the allegation that the  
14 Committee violated 11 C.F.R. § 102.9(e)(2).

15 **II. FACTUAL AND LEGAL ANALYSIS**

16  
17 The Federal Election Campaign Act of 1971, as amended (the "Act"), requires treasurers  
18 to keep an account of all contributions received by a political committee.<sup>2</sup> The Commission's  
19 regulations permit a candidate's committee to receive contributions for the general election prior  
20 to the primary election provided the committee employs an acceptable accounting method to  
21 distinguish between primary and general election contributions.<sup>3</sup> Committees are permitted to  
22 use general election contributions to make advance payments for general election purposes.<sup>4</sup> The

<sup>1</sup> The Committee is the principal campaign committee for Marjorie Margolies, who was a candidate for the United States House of Representatives in 2014 from Pennsylvania's 13th Congressional District.

<sup>2</sup> 52 U.S.C. § 30102(c).

<sup>3</sup> 11 C.F.R. § 102.9(e)(1).

<sup>4</sup> See Advisory Op. 1986-17 (Friends of Mark Green) at 4 (concluding that the Act did not prohibit a committee from using general election contributions to make expenditures for the general election before the primary election, such as advance payments or deposits in connection with the general election).

1 committee's records must demonstrate that prior to the primary election, the committee's  
2 recorded cash-on-hand was at all times equal to or in excess of the sum of general election  
3 contributions received less the sum of general election disbursements made ("net general election  
4 funds").<sup>5</sup>

5 The Complaint alleges that the Committee spent "tens of thousands of dollars" in general  
6 election funds on consultants and other vendors for the primary election.<sup>6</sup> The Complaint and  
7 Supplement provide charts and spreadsheets analyzing the Committee's daily cash flow during  
8 the 2014 April Quarterly and Pre-Primary reporting periods purporting to demonstrate that the  
9 Committee violated 11 C.F.R. § 102.9(e)(2) by failing to maintain more cash-on-hand than the  
10 net general election funds.<sup>7</sup> According to the Complainant's analysis, the Committee's cash-on-  
11 hand was less than its net general election funds from January 15 through March 30, 2014, and  
12 from April 1 through April 30, 2014.<sup>8</sup> As noted in the Complaint, the Committee did not  
13 disclose any disbursements for the general election.<sup>9</sup>

14 The Complaint alleges that the Committee's deficit ran as great as \$71,427, and that as of  
15 the end of the Pre-Primary reporting period on April 30, 2014, the Committee had \$151,448 in  
16 cash-on-hand, less than the \$177,088 raised for the general election.

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<sup>5</sup> See 11 C.F.R. § 102.9(e)(2).

<sup>6</sup> Compl. at 1 (Apr. 24, 2014).

<sup>7</sup> *Id.* at 1-3 and Attach. at 1-4; Supp. Compl. at 1-3 (May 14, 2014).

<sup>8</sup> Compl. at 1-2; see Supp. Compl. at 1-2.

<sup>9</sup> Compl. at 3.

1 The Committee responded that it raised \$177,188 in contributions designated for the  
2 general election, as permitted by 11 C.F.R. §§ 102.9(e) and 110.1(b).<sup>10</sup> The Committee asserts  
3 that it “agreed to advance a portion of these funds to its principal campaign vendors in order to  
4 secure their services, availability and commitment for the general election,” and that the  
5 advanced funds would be available to pay for general election media and consulting expenses of  
6 the vendors.<sup>11</sup> According to the Committee, it advanced the funds on the condition that they  
7 would be refunded to the Committee if the candidate did not secure the nomination, and the  
8 vendors refunded the advance payments to the Committee after Margolies lost the primary  
9 election.<sup>12</sup> The Committee’s response does not detail the amount of funds advanced and  
10 refunded or identify its vendors. The Committee, however, disclosed refunds received from two  
11 vendors, as detailed in the chart below:

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<sup>10</sup> Resp. at 1 (July 24, 2014). There is an unexplained \$100 discrepancy between the Complaint’s assertion that the Committee raised \$177,088 in general election contributions and the Committee’s assertion that it raised \$177,188. See Supp. Compl. at 1; Resp. at 1. This discrepancy is not material to this analysis.

<sup>11</sup> Resp. at 1.

<sup>12</sup> *Id.*

Refunds from Vendors to Committee

<u>Date</u> <sup>13</sup>	<u>Payor</u>	<u>Purpose</u>	<u>Amount</u> <sup>14</sup>
May 18, 2014	Black Blue Media, Inc.	Refund of Media Account	\$78,750.00
July 14, 2014	Black Blue Media, Inc.	Refund of Media Account	\$40,000.00
July 14, 2014	Info Voter Technologies, Inc.	Refund	\$92,000.00
July 14, 2014	Info Voter Technologies, Inc.	Refund	\$18,000.00

As shown in the chart, the Committee received refunds totaling \$150,000 after the May 20, 2014, primary election, and it appears that at least two of these refunds totaling \$132,000 reflect the return of advances that the Committee made to the vendors for general election services.<sup>15</sup> And, and as explained above, *see supra* n.14, the Committee specifically confirmed that the refunds from Info Voter Technologies were made to refund general election advances.<sup>16</sup> Thus, the Committee's advances appear to reduce its net general election funds which, in turn, reduces the amount of cash-on-hand necessary to meet Section 102.9(e)(2)'s

<sup>13</sup> See 2014 July Quarterly Report at 63 (July 15, 2014); 2014 October Quarterly Report at 7 (Oct. 15, 2014).

<sup>14</sup> The Committee disclosed disbursements totaling \$118,750 to Black Blue Media, the same amount it received in refunds from Black Blue Media. See 2013 October Quarterly Report at 95 and 96 (Oct. 15, 2013); 2013 Year End Report at 82 (Jan. 31, 2014); 2014 April Quarterly Report at 84 (Apr. 15, 2014), 2014 Pre-Primary Report at 33 (May 8, 2014). The Committee also disclosed disbursements totaling \$92,000 to Info Voter Technologies, \$18,000 less than the \$110,000 it received in refunds from Info Voter Technologies. See 2013 October Quarterly Report at 104, 2013 Year End Report at 92 and 93, 2014 April Quarterly Report at 100 and 101. The Commission's Reports Analysis Division ("RAD") sent the Committee a Request for Additional Information ("RAI") on March 3, 2015, regarding this apparent \$18,000 over-refund by Info Voter Technologies. On April 10, 2015, the Committee responded to the RAI, stating that it had "miscommunicated the amount of funds that had been advanced to Info Voter Technologies for the general election. The correct amount should have been \$92,000." Form 99 Miscellaneous Document to the Commission (Apr. 10, 2015). The Committee has since refunded \$18,000 to Info Voter Technologies, disclosing payments to Info Voter Technologies of \$17,201.89 on March 23, 2015, and \$799.11 on March 31, 2015, for "Return of General 2014 Refund Overage." See 2015 April Quarterly Report at 6 and 7.

<sup>15</sup> The \$132,000 total includes the \$40,000 refund from Black Blue Media on July 14, and the \$92,000 refund from Info Voter Technologies on July 14. As noted above, the \$18,000 refund does not correspond to an advance made by the Committee. See *supra* n.14.

<sup>16</sup> See Resp. at 1. On its disclosure reports, the Committee identified disbursements to Black Blue Media and Info Voter Technologies as being made for the 2014 primary election and not for the general election. See 2013 October Quarterly Report, 2013 Year-End Report, 2014 April Quarterly Report and 2014 Pre-Primary Report. The Committee's disclosures of the vendors' refunds were similarly marked as "primary."

1 requirement that cash-on-hand at all times equal or exceed the net general election contributions.  
2 Though the Complaint alleged that the cash-on-hand deficit was as large as \$71,427, a deficit in  
3 this amount appears to have been adequately offset by the advance payments for the general  
4 election that were at least \$92,000 and may have been as much as \$132,000.

5 Under the circumstances, the Commission believes this matter warrants dismissal. The  
6 Committee's advance payments to the vendors may have eliminated any deficit under  
7 Section 102.9(e)(2). Accordingly, in furtherance of its priorities relative to other matters pending  
8 on the Enforcement docket, the Commission dismisses the allegation that the Committee violated  
9 11 C.F.R. § 102.9(e)(2). *See Heckler v. Chaney*, 470 U.S. 821 (1985).